

# REGISTER

*South Dakota Legislative Research Council*



*Volume 31*

*Monday, 8:00 a.m., September 13, 2004*

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**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

***Secretary of State: Board of Finance:***

(September 8, 2004) intends to amend rules to increase the per diem rates for meal expenses incurred by employees traveling both in-state and out-of-state on official business. The general authority for these rules, as cited by the board, is SDCL 3-9-2.

A public hearing will be held in the Secretary of State's office Room 204, 2<sup>nd</sup> floor, State Capitol, Pierre, South Dakota, on October 19, 2004, at 2:00 p.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Board of Finance, c/o Secretary of State, 500 E. Capitol, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at <http://sdsos.gov/finance>. Material sent by mail must be received by October 29, 2004, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 773-3537 at least forty-eight hours before the hearing.

***Department of Environment and Natural Resources: Water Management Board:***

(September 9, 2004) has filed rules to allow bentonite grout to be used instead of cement grout as an annular seal under certain conditions and to require applicants for new well driller licenses to pass an examination. The general authority for these rules, as cited by the board, is SDCL 46-2-5, 46-6-20 and 46-6-27.

A public hearing will be held in the Floyd Matthew Training Center, Joe Foss Building,

523 East Capitol Avenue, Pierre, South Dakota, on October 6, 2004, at 8:30 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Chief Engineer, Department of Environment and Natural Resources, Water Rights Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57701. Material sent by mail must be received by October 5, 2004, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3352 at least 48 hours before the hearing.

**FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF GAME, FISH AND**

**PARKS:** 41:03:03:03.01; 41:04:02:14, 41:04:02:27, 41:04:02:28, 41:04:02:39, 41:04:02:52, 41:04:02:58; 41:06:02:01, 41:06:16:03, 41:06:16:07, and 41:06:16:10.

History-Notice: 31 SDR 7, July 16, 2004

Hearing: August 5-6, 2004

Filed: September 3, 2004

Effective: September 23, 2004

**DEPARTMENT OF SOCIAL SERVICES:  
OFFICE OF MEDICAL SERVICES:**

67:16:01:25, 67:16:01:26; 67:16:03:03, 67:16:03:06, 67:16:03:06.06, 67:16:03:06.16, 67:16:03:14, 67:16:03:14.02; 67:16:26:02, 67:16:26:07.02; 67:16:40:01, 67:16:40:02, 67:16:40:04, 67:16:40:06, 67:16:40:08, 67:16:40:09.01, 67:16:40:16.01, and 67:16:40:20.

History-Notice: 30 SDR 210, June 21, 2004

Hearing: July 12, 2004

Filed: September 9, 2004  
Effective: September 29, 2004

**DEPARTMENT OF SOCIAL SERVICES:  
OFFICE OF CHILD CARE SERVICES:**

67:42:01:01, 67:42:01:02, 67:42:01:07,  
67:42:01:12, 67:42:01:21, 67:42:01:24,  
67:42:01:37; 67:42:03:04.01, 67:42:03:06,  
67:42:03:07.02, 67:42:03:07.03, 67:42:03:08,  
67:42:03:08.01, 67:42:03:11.02,  
67:42:03:11.03, 67:42:03:11.04,  
67:42:03:11.05, 67:42:03:11.08,  
67:42:03:11.09, 67:42:03:11.10, 67:42:03:12,  
67:42:03:13, 67:42:03:15, 67:42:03:16,  
67:42:03:17, 67:42:03:20, 67:42:03:21,  
67:42:03:22, 67:42:03:23; 67:42:04:03,  
67:42:04:04, 67:42:04:04.02, 67:42:04:04.05,  
67:42:04:04.06, 67:42:04:04.07,  
67:42:04:04.08, 67:42:04:06, 67:42:04:07,  
67:42:04:08.01, 67:42:04:09, 67:42:04:12,  
67:42:04:19; 67:42:10:02, 67:42:10:02.01,  
67:42:10:04, 67:42:10:05, 67:42:10:06,

67:42:10:06.01, 67:42:10:07, 67:42:10:09,  
67:42:10:10, 67:42:10:11, 67:42:10:13,  
67:42:10:14, 67:42:10:15, 67:42:10:18,  
67:42:10:25; 67:42:11:02, 67:42:11:05,  
67:42:11:06.01, 67:42:11:07, 67:42:11:08,  
67:42:11:14, 67:42:11:15.01, 67:42:11:22,  
67:42:11:25, 67:42:11:43, 67:42:11:44;  
67:42:14:12, 67:42:14:13, and 67:42:14:24.

History-Notice: 30 SDR 215, June 28, 2004

Hearing: July 13, 2004

Filed: September 9, 2004

Effective: September 29, 2004

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

**REMINDER OF HEARINGS SCHEDULED**

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|-----------|---|---|
| 9-14-2004 | Environment and Natural Resources: Operator Certification Program | Amend rules to clarify which operators are eligible to become certified as Class III or IV operators; 31 SDR 13.  |
| 9-20-2004 | Labor: Public Utilities Commission                                | Amend rules that would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage and to require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days; 31 SDR 13 and 31 SDR 26. |
| 9-20-04   | Education: Board of Education                                     | Amend rules to clarify appropriate mileage and travel time reimbursement options for early intervention service providers, and to expand endorsement opportunities for principals; 31 SDR 29.   |
| 9-20-2004 | Labor: Board of Examiners in Optometry                            | Amend rules to establish that the date and place for examinations is to be fixed by the National Board of Examiners in Optometry; change the amount of the application fee and fee paid upon  |

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|           |   | issuance of certificate; revise the rules relating to the scope of practice; authorize one annual renewal fee of \$175, instead of the two separate fees, \$150 for renewal for licensed optometrists not certified in the use of pharmaceutical agents, plus an additional \$25 for those licensed optometrists certified in the use of pharmaceutical agents; increase the reinstatement fee after default; and increase the reciprocity fee to be the same as the application fee; 31 SDR 29.  |
| 9-23-2004 | Transportation                                | Add a 30 mph speed zone in Lawrence County along US Highway 14A to lower the speed limit through an area near downtown Deadwood; add a 50 mph speed zone along South Dakota Highway 34 near the junction with South Dakota Highway 47 at Fort Thompson; and extend 30 mph and 45 mph speed zones in Kingsbury County along US Highway 14 to the east through the City of Lake Preston near the east entrance to the park and swimming pool complex; 31 SDR 34.  |
| 9-24-2004 | Revenue and Regulation: Division of Insurance | Amend rules to update the continuing education requirements; specify when the long-term care suitability report is due; implement privacy guidelines for health information; and define terms and clarify that a report is required; 31 SDR 33.   |
| 9-27-2004 | Labor: Cosmetology Commission                 | Amend rules to update requirements for apprentice senior instructor license applications, change the annual renewal dates to birth dates for individuals and to opening dates for salons starting in 2006, change the work credit for reciprocity applicants, update and clarify safety and sanitation procedures, clarify non-invasive chemical use on skin, update prohibited products, update training and curriculum requirements for apprentices, increase the continuing education for instructors from ten annual hours to twelve annual hours, require continuing education for the use of electrical nail files, add that the commission will provide certificates for continuing education, require all foot spas to be disinfected after each use, allow a verification fee and pre-approval for a course provider to teach a course, clarify the type of education required by senior instructor to teach apprentices, and add a newly published textbook to the approved textbooks; 31 SDR 33. |

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| 9-29-2004  | Health  | Adopt and amend rules relating to Radiation Safety, Drug Control, and Medical Facilities; 31 SDR 25.  |
| 10-6-2004  | Environment and Natural Resources: Water Management Board | Amend rules to clarify that all waters of the state are subject to public recreation if they can be reached without trespassing on private property; 31 SDR 25.   |
| 10-6-2004  | Environment and Natural Resources: Water Management Board | Amend the Groundwater Quality Standards rules to set ground water quality standards to the updated maximum contaminant levels as set by the U.S. Environmental Protection Agency; and amend the Groundwater Discharge Permits rules to define "shallow aquifer," clarify who must apply for a ground water discharge plan, specify the maximum duration for a groundwater discharge facility construction permit, and specify renewal requirements for a groundwater discharge facility construction permit; 31 SDR 34. |
| 10-6-2004  | Environment and Natural Resources: Water Management Board | Amend Water Rights Program rules to allow bentonite grout to be used instead of cement grout as an annular seal under certain conditions, and to require applicants for new well driller licenses to pass an examination; 31 SDR 39.  |
| 10-19-2004 | Secretary of State: Board of Finance                      | Amend rules to increase per diem rates for meal expenses incurred by employees traveling both in-state and out-of-state on official business; 31 SDR 39.  |
| 10-29-2004 | Labor: Board of Accountancy                               | Amend rules to carry out the functions of the nationally adopted continuing professional education standards, following approval by the Legislature for implementation July 1, 2005; 31 SDR 34.   |

### *Rules Review Committee Meetings*

The next meeting of the Interim Rules Review Committee will be held Friday, October 15, 2004, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2004 interim: December 7.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 31 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (<http://legis.state.sd.us/mylrc/index.cfm>).